

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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KAKHA ABULADZE, <i>et al.</i> ,	:	
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Plaintiffs,	:	1:22-cv-8684-GHW-GS
	:	
-against-	:	<u>ORDER</u>
	:	
APPLE COMMUTER INC., <i>et al.</i> ,	:	
	:	
Defendants.	:	
	:	
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GREGORY H. WOODS, United States District Judge:		

On January 23, 2024, Magistrate Judge Tarnofsky issued a Report and Recommendation (“R&R”) recommending that the Court grant in part and deny in part the Moving Hotel Defendants’ 12(b)(5) and 12(b)(6) motion to dismiss. Dkt. No. 81.¹ In that R&R, Magistrate Judge Tarnofsky determined that (1) Plaintiffs did not fail to serve a necessary and indispensable party, (2) Plaintiffs’ FLSA and some of Plaintiffs’ NYLL claims are time-barred, (3) Plaintiffs adequately pleaded that the Hotel Defendants were their joint employers, (4) the Moving Hotel Defendants are not exempt under the taxicab exception to FLSA and the NYLL, (5) Plaintiffs’ breach of contract claims should be dismissed, (6) Plaintiffs’ unjust enrichment claims should be dismissed, (7) Plaintiffs’ collective action and class action allegations should not be dismissed, and (8) leave to amend should be denied.

See generally id.

A district court reviewing a magistrate judge’s report and recommendation “may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1). Parties may raise specific, written objections to the report and recommendation within fourteen days of receiving a copy of the report. *Id.*; *see also* Fed. R. Civ. P.

¹ Capitalized terms herein take on the meaning prescribed in the R&R.


72(b)(2). The Court reviews for clear error those parts of the report and recommendation to which no party has timely objected. 28 U.S.C. § 636(b)(1)(A); *Lewis v. Zon*, 573 F. Supp. 2d 804, 811 (S.D.N.Y. 2008).

No objection to the R&R was submitted within the fourteen-day window. The Court has reviewed the R&R for clear error and finds none. *See Braunstein v. Barber*, No. 06 Civ. 5978 (CS) (GAY), 2009 WL 1542707, at *1 (S.D.N.Y. June 2, 2009) (explaining that a “district court may adopt those portions of a report and recommendation to which no objections have been made, as long as no clear error is apparent from the face of the record.”). The Court, therefore, accepts and adopts the R&R in its entirety. For the reasons articulated in the R&R, Defendants’ motion to dismiss is granted in part and denied in part as to all Defendants except Defendants Apple and Shah, and leave to amend is denied.

The Clerk of Court is directed to terminate the motion pending at Dkt. No. 62.

SO ORDERED.

Dated: February 7, 2024
New York, New York



GREGORY H. WOODS
United States District Judge